


IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA DIVISION

FILED BY 
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CLARENCE BAUDOUX
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S.D. OF FLA. - MDT

00-02353

SERGIO HERNANDEZ, DAVID SMART,)
MARINO M. RODRIGUEZ, MIGUEL PEREZ,)
CARLOS M. GRANJA, MIGUEL OBANDO,)
CARLOS CHAVEZ, JUAN C. DAVILA,)
ROLANDO ESPINOSA,)
DANIEL FERRO, ISRAEL GONZALEZ,)
CARLOS GUTIERREZ, JOSÉ C. JIMENEZ,)
MARCIANO LEON, CARLOS R. LOPEZ,)
ALBERTO LUNA, JAMIE MAYORGA,)
JULIO C. MARTINEZ, DANIEL J. MENA,)
JOSÉ A. MENA, JULIO MOLINA, JOSÉ D.)
OLIVAS, ARNOLDO PADILLA,)
IMBANO MORALES PEREZ, ORLANDO J.)
REYES, JACINTO RODRIGUEZ, MIGUEL A.)
RODRIGUEZ, OSWELD RODRIGUEZ, RENE)
RODRIGUEZ, FERNANDO SABALLOS,)
LEMER SAAVEDRA, JUAN TERCERO,)
GERMAN VELASQUES, MANUEL A.)
VILLAVICENCIO, RAMON GUSMAN,)
CANTALICIO BUSTILLO, OSCAR ZUNIGA,)
JORGE PRADO, LUIS PEREZ,)
and LUIS SAAVEDRA,)

Plaintiffs,)
vs.)

S.K. GROUP, INC, a Florida)
corporation, SOKOLOV, LTD., a)
Florida limited partnership,)
SOKOLOV, INC., DECO CONTRACTORS, INC.)
and ADP TOTALSOURCE FL XVII, INC)
a Florida corporation,)

Defendants.)

CIV-MIDDLEBROOKS
Case No.

**MAGISTRATE
BANDSTRA**

COMPLAINT

PLAINTIFFS sue the Defendants, S.K. GROUP, INC., SOKOLOV, LTD., SOKOLOV,



INC., DECO CONTRACTORS, INC., and ADP TOTALSOURCE FL XVII, INC. (Hereinafter collectively referred to as “Defendants”), and state:

1. Plaintiffs, on their behalf and all other similarly situated individuals, bring this action under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 et seq.), hereinafter “the Act,” to recover unpaid back wages, and additional equal amount as liquidated damages, reasonable attorneys’ fees and costs.
2. Jurisdiction of this action is conferred upon the court by 29 U.S.C. §216(b), 28 U.S.C. §1337, and over the state law claim pursuant to the doctrine of supplemental jurisdiction.
3. All acts or omissions giving rise to this dispute took place in the Southern District of Florida.

PARTIES

4. Plaintiffs are individual residents of the Southern District of Florida, and at all times material to this lawsuit were employees of Defendants.
5. Defendant, S.K. GROUP, INC. is a corporation that is incorporated under the laws of the State of Florida. It has its principal place of business in Miami-Dade County, Florida, and its registered agent for service of process is Joshua D. Manaster, 1428 Brickell Avenue, 8th Floor, Miami, Florida.
6. Defendant, SOKOLOV, LTD. is limited partnership formed under the laws of the State of Florida. It has its principal place of business in Miami-Dade County, Florida, and its registered agent for service of process is Leo Rose, Esq., Therrel Baisden, P.A. One S.E. 3rd Avenue, Suite 2400, Miami, Florida 33131.

7. Defendant, SOKOLOV, INC. is a corporation formed under the laws of the State of Florida. It has its principal place of business in Miami-Dade County, Florida, and its registered agent for service of process is Joshua D. Manaster, 1428 Brickell Avenue, 8th Floor, Miami, Florida..
8. Defendant, DECO CONTRACTORS, INC., is a corporation formed under the laws of the State of Florida. It has its principal place of business in Miami-Dade County, Florida, and its registered agent for service of process is Marvin Bigelman, 9364 Bay Dr., Surfside Florida.
9. Defendant, ADP TOTALSOURCE FL XVII, INC., is a corporation formed under the laws of the State of Florida. It has its principal place of business in Miami-Dade County, Florida, and its registered agent for service of process is Elizabeth J. Marston, 10200 Sunset Drive, Miami Florida.
10. Plaintiff has been engaged in commerce or the production of goods for commerce within the meaning of Section 3(b) and (j), respectively, of the Act (29 U.S.C. § 203(b) and (j)).
11. At all times hereinafter mentioned, the Defendants had an annual gross volume of sales made or business done of not less than \$500,000.00, exclusive of excise taxes at the retail level which are separately stated.
12. By reason of the foregoing, Defendants were, during all times hereinafter mentioned, an enterprise engaged in commerce or in the production of goods for commerce as defined in Section 3(r) of the Act (29 U.S.C. § 203(r) and 203(s)).

VIOLATION OF FAIR LABOR STANDARDS ACT
FAILURE TO PAY OVERTIME WAGES

13. Federal law, 29 U.S.C. §207(a)(1), states that “if an employer employs an employee for more than forty hours in any work week, the employer must compensate the employee for hours in excess of forty at a rate of at least one and a half times the employee’s regular rate.”
14. At all times since about June of 1997, Defendants willfully employed Plaintiffs and other similarly situated employees in the aforesaid enterprises, in commerce or in the production of goods for commerce, or employees handling, selling or otherwise working on goods or materials that have been moved in or produced for commerce as described above, for many workweeks longer than 40 hours, and failed and refused to compensate Plaintiffs and others similarly situated for such work in excess of 40 hours at rates not less than one and one-half times the regular rates at which they were employed, contrary to the provisions of Section 7(a) of the Act (29 USC § 207(a)).
15. Defendants are employers under the Act.
16. Defendants willfully and intentionally failed to pay Plaintiff, and other similarly situated employees the statutory overtime rate as required by the laws of the United States as set forth above and remains owing them back wages.
17. As a result of the under payments of wages alleged above, Defendants are indebted to Plaintiffs and others similarly situated in the amount of the unpaid minimum wages and/or overtime compensation. Plaintiffs propose to obtain the necessary records and

information to determine the amount of the underpayment to the Plaintiffs and others similarly situated by appropriate discovery proceedings to be promptly taken in this cause.

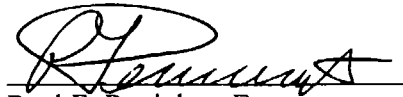
WHEREFORE, Plaintiffs, on their behalf and on behalf of others similarly situated, demand judgment awarding them all such legal and/or equitable relief that will effectuate the purpose of the Act including but not limited to back pay and prejudgment interest, liquidated damages, reasonable attorney fees, pursuant to 29 U.S.C. §216(b), and the other applicable provisions of the Act, along with court costs, witness fees and other miscellaneous costs of the litigation, and any other relief that this court finds reasonable under the circumstances.

Respectfully submitted

PAUL F. PENICHET, P.A.
Co-counsel for Plaintiffs
201 Alhambra Circle
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Coral Gables, FL 33134
(305) 448-8550, (305) 441-1413 (fax)

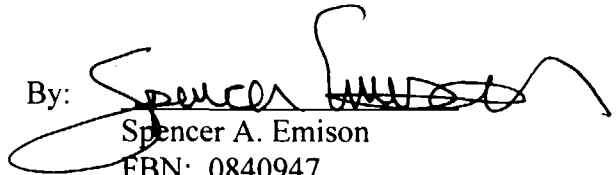
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BY:



Paul F. Penichet, Esq.
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By:



Spencer A. Emison
FBN: 0840947

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

CIV-MIDDLEBROOKS

I (a) PLAINTIFFS

Sergio Hernandez et al.
(See Addendum)

DEFENDANTS

MAGISTRATE
BANDSTRA

S.K. Group, Inc., Sokolov,
Ltd., Sokolov, Inc., Deco
Construction, Inc., and
ADP TotalSource FL XVII, Inc.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Dade
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Dade
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

Paul F. Penichet, P.A. 201 Alhambra
Cir., Ste. 711, Coral Gables, FL 33134

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1. U.S. Government Plaintiff
☐ 2. U.S. Government Defendant
☒ 3. Federal Question (U.S. Government Not a Party)
☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Case Only)

- Citizen of This State ☐ 1
Citizen of Another State ☐ 2
Citizen or Subject of a Foreign Country ☐ 3

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Incorporated or Principal Place of Business in This State ☐ 4
Incorporated and Principal Place of Business in Another State ☐ 5
Foreign Nation ☐ 6

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Defendant violated the Fair Labor Standards Act (29 U.S.C. 201 et seq.)
by failing to pay the Plaintiffs overtime

Va. 4-5 days estimated (for both sides) to try entire case

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

A CONTACT	A TORTS	B FORFEITURE PENALTY	A BANKRUPTCY	A OTHER STATUS
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 States Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Annuity
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	A PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 325 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commercial/ICC Rates etc. B
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) B	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	B SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits B	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholder's Suits	<input type="checkbox"/> 360 Other Personal Injury	A LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 370 Other Fraud	<input checked="" type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 371 Truth in Lending B	<input type="checkbox"/> 720 Labor Management Relations B	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 730 Labor Management Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 740 Railway Labor Act	A FEDERAL TAX SUITS	<input type="checkbox"/> 894 Election Allocation Act
A REAL PROPERTY	A CIVIL RIGHTS	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act B	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7509	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 220 Foreclosure B	<input type="checkbox"/> 442 Employment			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations			<input type="checkbox"/> 990 Other Statutory Actions *
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare			* A or B
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights			
<input type="checkbox"/> 290 All Other Real Property				
	B PRISONER PETITIONS			
	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus			
	<input type="checkbox"/> 530 General *			
	<input type="checkbox"/> 535 Death Penalty			
	<input type="checkbox"/> 540 Mandamus & Other *			
	<input type="checkbox"/> 550 Civil Rights * A or B			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1. Original Proceeding ☐ 2. Removed From State Court ☐ 3. Remanded from Appellate Court ☐ 4. Refiled ☐ 5. Transferred from another district (Specify) ☐ 6. Multidistrict Litigation ☐ 7. Appeal to District Judge from Magistrate Judgment

VII. REQUESTED

CLASS ACTION

DEMAND \$

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

06/28/00

UNITED STATES DISTRICT COURT

REV. 9/94

FOR OFFICE USE ONLY: Receipt No.

824569

Date Paid:

07/03/00

Amount:

150.00

M/fp: